



## DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA- 2014-0018]

Bus and Bus Facilities Formula Program: Proposed Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed circular and request for comments.

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**SUMMARY:** The Federal Transit Administration (FTA) has placed in the docket and on its website, proposed guidance, in the form of a circular, to assist recipients in their implementation of the Section 5339 Bus and Bus Facilities Formula Program (Bus Program). The purpose of this proposed circular is to provide recipients of FTA financial assistance with instructions and guidance on program administration and the grant application process. This proposed circular is a result of the new Bus Program enacted through the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21). By this notice, FTA invites public comment on the proposed circular.

**DATES:** Comments must be submitted by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may submit comments identified by the docket number FTA-2014-0018 by any of the following methods:

- Federal eRulemaking Portal: Submit electronic comments and other data to <http://www.regulations.gov>.
- U.S. Mail: Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations, U.S. Department of Transportation, at (202) 493-2251.

Instructions: The agency name (Federal Transit Administration) and Docket Number (FTA-2014-0018) must be included at the beginning of each submission. If sent by mail, please submit two copies. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties mailing comments should consider using an express mail firm to ensure their prompt filing. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may review USDOT's complete Privacy Act Statement published in the Federal Register on April 11, 2000, at 65 FR 19477-8 or <http://DocketsInfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For program matters, Sam Snead, Office of Transit Programs, (202) 366– 1089 or [samuel.snead@dot.gov](mailto:samuel.snead@dot.gov). For legal matters, Michelle Hershman, Office of Chief Counsel, (202-493-0197) or [michelle.hershman@dot.gov](mailto:michelle.hershman@dot.gov). Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

## **SUPPLEMENTARY INFORMATION:**

### **I. Overview**

The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21, Pub. L. 112-141), signed into law on July 6, 2012, establishes the Section 5339 Bus and Bus Facilities Formula program (Section 5339 or Bus Program), replacing some of the elements of the Bus and Bus Facilities discretionary program (formerly 49 U.S.C. 5309(b)(3) under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act of 2005 (SAFETEA–LU)). The Section 5309 Bus and Bus Facilities Program under SAFETEA-LU provided funds for capital bus and bus facility grants in support of the U.S. Department of Transportation’s (U.S. DOT) State of Good Repair, Bus Livability, Veterans Transportation and Community Living, and Clean Fuels initiatives. In addition, SAFETEA–LU allocated funds under this program for Ferry Boat Systems, Fuel Cell Bus, and the Bus Testing program. The new Section 5339 Bus Program, which now includes only capital projects, provides funding to replace, rehabilitate, and purchase buses and related equipment as well as construct bus-related facilities.

Therefore, FTA is proposing new circular 5100.1, “Bus and Bus Facilities Program: Guidance and Application Instructions,” in order to provide grantees with guidance for applying for funding under the Bus Program. In addition, the proposed circular addresses the requirements that must be met in the application for Section 5339 program assistance.

In addition to implementing the new Section 5339 program, MAP-21 made several significant changes to Federal transit laws that are applicable across all of FTA’s financial assistance programs and reflected in this proposed circular. These changes further several important goals of the U.S. DOT. Most notably, MAP-21 grants FTA significant new authority to oversee and regulate the safety of public transportation systems throughout the United States. MAP-21 also puts new emphasis on restoring and replacing the Nation’s aging public transportation infrastructure by establishing a new State of Good Repair formula program and new asset management requirements. Furthermore, it aligns Federal funding with key performance goals and tracks recipients’ progress towards these goals. Finally, MAP-21 improves the efficiency of program administration through program consolidation and streamlining. FTA encourages commenters to review and provide comments on this document as well as the other proposed circulars FTA has drafted in response to the MAP-21 changes.

This notice provides a summary of the proposed circular. The circular contains new policies including, but not limited to, policies regarding funding transfer provisions, ineligibility of preventive maintenance and designated recipient eligibility. The circular itself is not included in this notice; an electronic version may be found on FTA’s Web site, at [www.fta.dot.gov](http://www.fta.dot.gov). Paper copies of the circular may be obtained by contacting

FTA’s Administrative Services Help Desk, at (202) 366-4865. FTA seeks comment on the proposed circular.

## **II. Chapter-by-Chapter Analysis**

### **A. Chapter I – Introduction and Background**

Chapter I of the circular is an introductory chapter that covers general information about FTA and its authorizing legislation, provides a brief history of the Bus Program, and defines terms applicable across all FTA programs.

#### **(1) Definitions**

The proposed circular provides information on the following statutory definitions relevant to Section 5339 which were amended by MAP-21, including “associated transit improvements” (previously “transit enhancements”); “bus rapid transit system”; “fixed guideway,” and “public transportation.” Definitions have also been included in this section for terms that are unclear or currently undefined. Where applicable, we have used the same definitions found in rulemakings or other circulars to ensure consistency.

#### **(2) Program History**

This section provides an overview of each piece of legislation that has authorized the Section 5339 Bus Program. While Section 5309 Bus Program under SAFETEA-LU was a discretionary program, the Section 5339 funding is allocated to recipients using a statutory formula. In addition, a set amount is appropriated to each State and territory from a National distribution allocation.

## **B. Chapter II – Program Overview**

Chapter II covers general information about the Bus Program, including program administration, eligibility and oversight.

### **(1) Statutory Authority**

This chapter begins by providing the statutory authority for the Bus Program, which was codified at 49 U.S.C. Section 5339.

### **(2) Program Goals**

This section identifies the primary goal of the Bus Program which is to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities which will support the continuation and expansion of public transportation services in the United States.

### **(3) FTA Role in Program Administration**

This section begins by providing information on the role of FTA's headquarters and regional offices. Headquarters serves a broader role in administration of the program, including providing guidance, apportioning funds, and conducting national reviews. Regional offices, on the other hand, are responsible for the day-to-day administration of

the program, including reviewing and approving grant applications, obligating funds and providing technical assistance.

#### (4) Designated Recipient and State Role in Program Administration

This section of the proposed circular clarifies that FTA will only apportion Bus Program funds for urbanized areas (UZA) to the State and designated recipients who are responsible for apportioning those funds to eligible projects and applying for funds on behalf of eligible subrecipients within the UZA. This section also clarifies that there are no other eligible direct recipients for the Bus Program under MAP-21. In addition, this section discusses the State's or designated recipient's responsibilities in administering Bus Program funds.

#### (5) Designated Recipient, States and Sub-recipient Eligibility

This section provides guidance on who is eligible to receive Section 5339 funds. Eligible recipients are designated recipients and States that operate or allocate funding to fixed-route bus operators. This section also describes the process for allocating funds to subrecipients and discusses pass-through arrangements whereby a designated recipient may pass its Bus Program grant funds through to a subrecipient to carry out the project agreed to in the grant. Unlike supplemental agreements between the designated recipient and FTA, a pass-through arrangement to a subrecipient does not relieve the recipient of its responsibilities to carry out the terms and conditions of the grant agreement.

#### (6) FTA Oversight

The section outlines the Congressionally-required oversight that FTA must conduct in relation to the Bus Program. Specifically, to perform this oversight, FTA conducts a triennial review at least once every three years to evaluate recipient performance and

compliance with Federal requirements and certifications. The Single Audit Act also requires recipients of Federal awards resulting in expenditures of \$750,000 or more to have independent audits conducted annually.

#### (7) Relationship to Other Programs

This section includes a discussion on both repealed SAFETEA-LU programs for which funds may still be available and new MAP-21 programs. This section begins by discussing the relationship between programs repealed by MAP-21 and the Bus Program authorized under MAP-21. Repealed programs include the Clean Fuels Grant Program (former Section 5308) and the Bus and Bus Facilities Discretionary Program (former Section 5309)(b)(3)). Funds previously authorized for programs that were repealed by MAP-21 may remain available for their originally authorized purposes until the statutory period of availability expires, or until the funds are fully expended, rescinded by Congress, or otherwise reallocated.

This section then discusses the relationship between the Bus Program and the following programs that are either completely new or were significantly modified by MAP-21, including the Urbanized Area Formula Program (5307), Fixed Guideway Capital Investment Program (5309, New and Small Starts, and Core Capacity Improvements), and the State of Good Repair Formula Program (5337).

### **C. Chapter III – General Program Information.**

#### (1) Apportionment of Program Funds

This chapter provides a more detailed discussion of the apportionments for the Section 5339 Bus Program. The apportionment calculations for Section 5339 include set-asides and formula calculations established by MAP-21. Of the total made available, a percentage identified within the apportionment notice is set aside for National Distribution for each State, Territory and the District of Columbia.

## (2) Apportionment Data

This section describes how FTA obtains the data used for the formula apportionments. For UZAs with less than 200,000 in population, the formula is based on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles and bus passenger miles as well as population and population density.

## (3) Availability of Funds

Under MAP-21, Section 5339 funding remains available for obligation three years from the year in which the funds were apportioned. As a result, the funds are available for three years plus the year of apportionment.

## (4) Transfer of Apportionments

MAP-21 allows the Governor of the State to transfer any part of the State's apportionment under the National Distribution to supplement the State's Section 5311 apportionment or any urbanized area's Section 5307 apportionment so long as funds are used for eligible Bus Program activities. No FTA prior approval is required, but the Governor must notify FTA of a transfer for each transaction for record purposes. The transfer provisions regarding formula funds under Section 5336 do not apply to Section 5339 program funds.

## (5) Eligible Capital Projects

The last section in this chapter proposes the types of projects and activities that may be funded under Section 5339. Eligible capital projects include projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. More specifically, this includes:

- a. the acquisition of buses for fleet and service expansion;
- b. bus maintenance and administrative facilities;
- c. transfer facilities;
- d. bus malls;
- e. transportation centers;
- f. intermodal terminals;
- g. park-and ride stations;
- h. acquisition of replacement vehicles;
- i. bus rebuilds;
- j. passenger amenities such as passenger shelters and bus stop signs;
- k. accessory and miscellaneous equipment such as:
  - 1. mobile radio units;
  - 2. supervisory vehicles;
  - 3. fare boxes;
  - 4. computers; and
  - 5. shop and garage equipment.
- m. clean fuels projects;

- n. introduction of new technology, including Intelligent Transportation Systems (ITS);
- o. leasing of capital assets;
- p. crime prevention and security;
- q. innovative financing;
- r. interest and debt financing;
- s. bicycle facilities;
- t. bus rapid transit systems; and
- u. joint development.

Under MAP-21, “public art” is no longer an eligible associated transit improvement (formerly “transit enhancement”). However, incorporation of design and artistic considerations into public transportation projects may still be an allowable cost, so long as it is an integral part of the project. For example, an artist may be employed as part of the construction design team, or art can be incorporated into functional elements such as walls, seating, lighting, or railings.

Planning activities are not eligible under the Bus Program. However, costs associated with environmental compliance as part of preliminary engineering (PE) or final design are eligible capital expenses. Preventive maintenance is not an eligible activity under the Bus Program. Mobility Management is also not an eligible expense under the Bus Program.

#### (6) Local Share of Project Costs

Consistent with MAP-21, this circular proposes a 20 percent local match requirement for capital assistance. However, MAP-21 expanded the category of funds that can be

used as local match. In addition to those sources of local match previously authorized under SAFETEA-LU, local match may also be derived from the following newly authorized sources:

- Amounts appropriated or otherwise made available to a department or agency of the Government (other than DOT), such as Community Development Block Grant Funds administered by the Department of Housing and Urban Development.
- Any amount expended by providers of public transportation by vanpool for the acquisition of rolling stock to be used in the recipient's service area, excluding any amounts the provider may have received in Federal, State or local government assistance for such acquisition. The provider is required to have a binding agreement with the public transportation agency to provide service in the relevant UZA.

Generally, The Federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act (ADA) or the Clean Air Act (CAA). The Federal share for project costs related to acquiring vehicle-related equipment or facilities (including clean-fuel or alternative-fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA, or for meeting ADA requirements, is 90 percent. The grant recipient may itemize the cost of specific, discrete, vehicle-related equipment being purchased for compliance with the ADA or CAA. The Federal share is 90 percent of the cost for these itemized elements.

#### (7) Additional Sources of Local Share

This section proposes additional sources of local share that recipients may use as part of local match for a capital project. Certain sources such as revenue bond proceeds need prior FTA approval.

#### (8) Alternative Financing

This section of the proposed circular discusses eligibility criteria for capital projects seeking Transportation Infrastructure Finance and Innovation Act (TIFIA) financing, pursuant to section 2002 of MAP-21 (23 U.S.C. 601 *et seq*). Eligible projects include any transit capital project which is anticipated to meet the statutory threshold size.

#### (9) Deferred Local Share

The final section in this chapter of the proposed circular discusses the situations in which recipients may request that local share for a project be deferred. Deferred local share must receive FTA approval prior to obligation of the grant.

### **D. Chapter IV – Planning and Program Development**

#### (1) Metropolitan and Statewide Planning Requirements

This chapter proposes guidance on metropolitan and statewide planning requirements. A grant applicant requesting Section 5339 assistance must comply with the planning requirements of 49 U.S.C. 5303, 5304, and 5306. Under SAFETEA-LU, certain eligible projects were required to be developed under a locally developed, coordinated planning process. Under MAP-21, coordinated planning is only a requirement of eligibility under the Section 5310 program. This section includes a reference to the FTA/FHWA revised joint planning regulations at 23 CFR parts 450 and 500 and 49 CFR part 613.

## (2) Transportation Management Areas (TMAs)

This section of the proposed circular introduces the discussion of TMAs for planning purposes. The proposed circular references the statutory definition of a TMA, which is a UZA with a population of over 200,000 individuals. There is also reference to the joint FTA/FHWA transportation planning regulations at 23 C.F.R. part 40, which include guidelines on determining the boundaries of a Metropolitan Planning Area (MPA).

## (3) Performance-Based Planning

The next section in this chapter provides the requirements of MAP-21's new broad performance management program which supports the seven national performance goals. The performance management framework attempts to improve project decision-making through performance-based planning and programming and through fostering a transparent and accountable decision-making process for Metropolitan Planning Organizations (MPOs), States, and providers of public transportation. This section recommends perusing the FTA/FHWA revised joint planning regulations at 23 CFR parts 450 and 500 and 49 CFR part 613(b), which also address performance-based planning.

## (4) Role of Designated Recipient and Metropolitan Planning Organization in Allocating Program Funds

This chapter provides guidance on the role of the designated recipient and the MPO in allocating program funds. Both the planning requirements and the statutory provisions of 49 U.S.C. Chapter 53 specify the roles of the MPO and of the designated recipient. While the MPO develops and adopts the TIP, the designated recipient, which may in some cases also be the MPO, has the primary responsibility to develop the program of

projects (POP) for the Section 5339 funds apportioned to its large UZA for inclusion in the TIP.

#### (5) Multiple Designated Recipients in Large UZAs

In those UZAs with more than one designated recipient, FTA recommends that local officials, operating in consultation with the MPO, work together to determine the allocation and sub-allocation of Section 5339 funds.

#### (6) Program of Projects and Public Participation Requirements

This section of the circular provides guidance on the POP that recipients must develop as required by 49 U.S.C 5307(b), which is applicable to Section 5339 recipients. A POP is a list of projects proposed by the designated recipient to be funded from the UZA's Section 5339 apportionment, which includes a description of the projects, in addition to any sub-allocation among public transportation providers, total project costs, local share, and Federal share for each project. As stated above, eligibility for funding under most FTA and FHWA programs requires the MPO to list projects in the approved TIP or STIP, or both. The TIP/STIP public participation and approval processes can serve to satisfy the requirements for public participation under Section 5307.

#### (7) Transfer of FTA Funds for Highway Projects

Section 5339 funds are not available to be transferred between FHWA and FTA for transit or highway projects.

#### (8) Requirements Related to Vehicles and Equipment

This section of the proposed circular provides guidance on FTA's useful life policy and includes methods by which grantees can determine the useful life for project property. Useful life of rolling stock begins on the date the vehicle is placed in revenue

service and continues until it is removed from service. This section provides additional guidance for determining the useful life of buses and vans and for calculating early disposition. Removal of an FTA-funded vehicle from revenue service before the end of its minimum useful life, except for reasons of fire, collision, or natural disaster, leaves the recipient liable to FTA for the Federal share of the vehicle's remaining value.

This section outlines the rolling stock spare ratio policies which are taken into account during FTA review of grant applications which propose to replace, rebuild, or add vehicles to the applicant's fleet. This section also clarifies that vehicles in the contingency fleet do not count in the calculation of spare ratio.

Next, this section provides the requirements that recipients must meet in order to receive funds for the purchase of vehicles, including pre-award and post-delivery review of buses and bus testing. MAP-21 amended the bus testing provisions under 49 U.S.C. 5318 to require that FTA establish a pass/fail testing standard. FTA funds will be available to acquire a new bus model only if it has received a passing score. This requirement will take effect after FTA has issued regulations establishing the standard. Other requirements outlined in this section include Buy America, the Transit Vehicle Manufacturer Disadvantaged Business Enterprises (DBE) Program Requirement, and requirements related to the ADA. Recipients must ensure that each transit vehicle meets the accessibility requirements and standards for the vehicle type specified in 49 CFR parts 37 and 38, as applicable.

Finally, this section outlines FTA's policies for replacing FTA-funded vehicles. A vehicle proposed to be replaced must have achieved at least the minimum useful life. Early replacement of a vehicle prior to the end of its minimum useful life requires prior

FTA approval. If a vehicle is replaced before it has achieved its minimum useful life, the recipient has the option of returning to FTA an amount equal to the remaining Federal interest in the vehicle or applying the “Like-Kind Exchange” policy and placing an amount equal to the remaining Federal interest in the vehicle into a newly purchased vehicle. Appendix C of this proposed circular contains a “Like-Kind Exchange Example.” In certain circumstances, a recipient may choose to rebuild a vehicle rather than dispose of it.

#### (9) Requirements Related to Facilities

This section contains information concerning program requirements specific to the construction or acquisition of facilities funded by Section 5339. Similar to vehicles, facilities have a useful life, which is determined by such factors as type of construction, nature of the equipment used, historical usage patterns, and technological developments. Recipients must ensure that transit facilities meet the accessibility standards and requirements specified in 49 CFR parts 37, 38, and 39, as applicable.

This section also discusses shared use of project property which requires prior written FTA approval except when it involves coordinated public transit human services transportation. Shared use projects should be clearly identified and sufficient detail provided to FTA at the time of grant review to determine allocable costs related to non-transit use for construction, maintenance, and operation costs. In addition, FTA requires recipients to include the planning justification in the grant application submitted in the FTA electronic management system. Though planning activities are not an eligible expense under the Bus Program, costs associated with environmental compliance as part of PE or final design are eligible capital expenses.

(10) Environmental

This section provides guidance on the environmental reviews that recipients must conduct prior to receiving FTA funding. This section recommends that recipients consult with FTA regarding the proper level of environmental review, prior to expending funds for a project.

(11) Undertaking Projects in Advance

This section explains the different authorities that allow a recipient to incur costs on a project before grant approval, while still retaining their eligibility for reimbursement after grant approval. The three types of authorities are pre-award authority, letters of no prejudice (LONP), and advanced construction authority (ACA). This section discusses the distinction among these three authorities and the terms and conditions that apply equally to all three.

**E. Chapter V – Program Management and Administrative Requirements**

(1) Certifications Required by 49 U.S.C. 5339

This chapter outlines the requirements to which Section 5339 recipients must certify compliance, including legal, technical, and financial capacity. Other requirements to which recipients must certify include satisfactory continuing control, maintaining federally-assisted facilities and equipment, compliance with the half-fare requirement during non-peak hours, use of competitive procurements, and Buy America.

(2) Certification Procedures

Before FTA may award Federal funding, the applicant must provide to FTA all certifications and assurances required by Federal laws and regulations. Near the beginning of each Federal fiscal year, FTA publishes the certifications in the *Federal Register*, highlighting any changes or additions from the previous year. FTA sometimes publishes the certifications and assurances on the same date the formula apportionments are published.

### (3) FTA Electronic Management System

This section provides a reference to FTA's electronic grants management system which allows electronic grant application submission, review, approval, and management of all grants. The User Guide can be found at FTA's website in the "Grants and Financing" section under "Apply for and Manage Grants."

### (4) System for Award Management Requirements

This section describes the System for Award Management (SAM), which is a free website that consolidates Federal procurement systems and the Catalog of Federal Domestic Assistance. On July 30, 2012, the Central Contractor Registration (CCR), FedReg, and the Excluded Parties List System (EPLS) were migrated into SAM. Any organization applying for financial assistance from the Federal government must register in SAM and keep its registration current until it submits its final financial report pursuant to the award agreement from FTA or receives its final payment under the project, whichever is later.

### (5) Data Universal Numbering System (DUNS) Registration Requirements.

Any organization applying for a grant or cooperative agreement from the Federal government must have a DUNS number. This is a nine digit identification number which

provides a unique identification for single business entities. Grant applicants that currently do not have a DUNS number can obtain one for free from Dun and Bradstreet ([www.dnb.com](http://www.dnb.com)).

#### (6) Subrecipients DUNS Requirement

This section informs subrecipients that they must have a DUNS number in order to receive a subaward from the recipient.

#### (7) Electronic Clearing House Operation (ECHO) Requirements

Grantees are required to establish an ECHO Control Number (ECN) before FTA is able to disburse funds to the grantee. Department of Treasury regulations, 31 CFR part 205, govern payment to recipients for financing operations under Federal assistance and other programs.

#### (8) Federal Funding Accountability and Transparency Act (FFATA) Requirement

This section discusses the statutory requirement that a recipient report information about each first tier sub-award over \$25,000 by the end of the month following the month the direct recipient makes any sub-award or obligation.

#### (9) National Transit Database (NTD) Reporting

Recipients (including subrecipients and contractors) of Section 5339 program funds are required by statute to submit data to the NTD. Recipients must provide annual financial reports and monthly reports on transit operations, safety and security to the NTD. There is a reduced reporting requirement for small systems.

## **F. Chapter VI – State and Program Management Plans**

### (1) General

This chapter begins by providing a general overview of State and Program Management Plans. The State Management Plan (SMP) is a document that describes the State's policies and procedures for administering FTA's program funding. The Program Management Plan (PMP) is a document that describes the designated recipient's policies and procedures for administering FTA's Section 5339 program in a large urbanized area. The requirements for the PMP are the same as those for the SMP with exception that the PMP is developed by designated recipients in large urbanized areas whereas the SMP is developed by the State.

### (2) Purpose

The SMP/PMP is intended to facilitate both recipient management and FTA oversight by documenting the State's and designated recipient's procedures and policies for administering the Section 5339 program.

### (3) Management Plan Reviews

This section describes the oversight reviews that FTA conducts to examine each designated recipient's management procedures, and the relationship of the procedures to its management plan.

### (4) Management Plan Content

While there is no prescribed format for the SMP/PMP, this circular proposes that the plan should address certain topics and provide specific information for each topic.

### (5) Management Plan Revisions

Each recipient, whether a State or a designated recipient in a large urbanized area, is required to have an approved SMP/PMP on file with the appropriate FTA Regional

Office and to update it regularly to incorporate any changes in program management or new requirements.

(6) Existing SMP/PMP

All recipients may amend an existing or approved SMP/PMP or create a stand-alone section in order to meet the requirement for these documents.

## **G. Chapter VII – Other Provisions**

This chapter provides an overview of the additional FTA-specific and other Federal requirements with which an FTA recipient must comply. This chapter provides a summarized, alphabetical listing of those requirements and provides citations to the actual statutory or regulatory text. If there is a conflict between the summary information provided in this chapter and the statute or regulation, the language of the statute or regulation controls.

This chapter includes information on new requirements and outlines changes to certain existing requirements. More specifically, MAP-21 amended 49 U.S.C. 5329 to provide FTA with the authority to establish a new comprehensive framework to oversee the safety of public transportation throughout the United States. The law requires, among other things, that DOT issue a National Public Transportation Safety Plan, establish safety performance criteria for all modes of public transportation, define a “state of good repair,” establish minimum safety performance standards for public transportation vehicles, and a safety certification training program. FTA will be issuing regulations and

interim guidance to implement these new requirements in consultation with public transportation industry stakeholders.

Additionally, this section of the proposed circular clarifies the effect that MAP-21 has had on the State Safety Oversight (SSO) Program and the requirements of 49 C.F.R. 659. Section 5330, which authorizes the SSO Program, will be repealed three years from the effective date of the new regulations implementing the new Section 5329 safety requirements. Until then, the current requirements of 49 CFR 659 will continue to apply.

## **H. Appendix**

The appendices include instructions for preparing a grant application and a budget, an application checklist, and several forms and representative documents that recipients will need when applying for Section 5339 funds. In addition, the appendices include FTA regional and metropolitan contact information. Last is a list of references, including *Federal Register* notice and other citations as appropriate to enable readers to view the source documents.

Issued in Washington, DC, this \_\_24\_\_ day of \_\_July, 2014.

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Therese McMillan,  
Deputy Administrator.

[FR Doc. 2014-17926 Filed 07/29/2014 at 8:45 am; Publication Date: 07/30/2014]